



**Billing Code 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

**RIN 0648-XF947**

**Atlantic Highly Migratory Species; Shortfin Mako Shark Management Measures**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS); request for comments.

**SUMMARY:** NMFS announces the availability of an Issues and Options document and its intent to prepare an EIS under the National Environmental Policy Act (NEPA) analyzing impacts of potential new management measures for shortfin mako sharks. Such measures would be implemented through rulemaking to address overfishing and to implement, as necessary and appropriate, measures adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT) (ICCAT Recommendation 17-08) in response to the 2017 shortfin mako shark stock assessment. Based on that assessment, NMFS determined that North Atlantic shortfin mako sharks were overfished and experiencing overfishing in December 2017. Management alternatives considered would be to meet NMFS's obligations related to ending overfishing and establishing a foundation for rebuilding the shortfin mako shark stock consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). Scoping is underway for this action, and

NMFS requests comments on a preliminary Issues and Options document that presents range of commercial and recreational management measures, in both directed and incidental fisheries, including, but not limited to, commercial and recreational retention limits, quota levels, minimum size limits, gear modifications, and electronic reporting.

**DATES:** Four scoping meetings and a conference call will be held from March through May 2018. See **SUPPLEMENTARY INFORMATION** for meeting and call dates and locations. Scoping comments must be received no later than 5 p.m., local time, on May 7, 2018.

**ADDRESSES:** You may submit comments on the Issues and Options document, identified by NOAA-NMFS-2018-0011, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0011](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0011), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Randy Blankinship, NMFS/SF1, 1315 East-West Highway, National Marine Fisheries Service, SSMC3, Silver Spring, MD 20910.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and generally will be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly

accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Copies of the 2018 shortfin mako shark Issues and Options document and supporting documents are available from the HMS Management Division website at <https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species> or constituents can contact Guý DuBeck by phone at 301-427-8503 for hard copies. Copies of the 2017 ICCAT Standing Committee on Research and Statistics (SCRS) shortfin mako shark benchmark stock assessment can be found online at [http://iccat.int/Documents/Meetings/Docs/2017\\_SCRS\\_REP\\_ENG.pdf](http://iccat.int/Documents/Meetings/Docs/2017_SCRS_REP_ENG.pdf).

**FOR FURTHER INFORMATION CONTACT:** Guý DuBeck or Karyl Brewster-Geisz at 301-427-8503.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

NMFS manages the Atlantic shark fisheries through the 2006 Consolidated Atlantic HMS Fishery Management Plan and its amendments as required under the Magnuson-Stevens Act. ICCAT manages sharks caught in association with ICCAT species (tuna and tuna-like species) throughout the Atlantic and the adjacent seas, and NMFS implements ICCAT measures as necessary and appropriate under ATCA.

The North Atlantic shortfin mako shark (*Isurus oxyrinchus*) is a highly migratory species that ranges across the entire North Atlantic Ocean and is caught by numerous countries. These sharks are a small but valued component of U.S. recreational and commercial shark fisheries. In recent years, U.S. catch has represented only approximately 11 percent of the total catch of the species in the North Atlantic by all

reporting countries. International measures are, therefore, critical to the species' effective conservation and management.

In August 2017, ICCAT's SCRS conducted a new benchmark stock assessment on the North Atlantic shortfin mako stock. At its November 2017 annual meeting, ICCAT accepted this stock assessment and determined the stock to be overfished with overfishing occurring. On December 13, 2017, based on this assessment, NMFS issued a status determination finding the stock to be overfished and experiencing overfishing using domestic criteria. The assessment specifically indicated that biomass ( $B_{2015}$ ) is substantially less than the biomass at maximum sustainable yield ( $B_{MSY}$ ) for eight of the nine models used for the assessment ( $B_{2015}/B_{MSY} = 0.57-0.85$ ). In the ninth model, spawning stock fecundity (SSF) was less than  $SSF_{MSY}$  ( $SSF_{2015}/SSF_{MSY} = 0.95$ ). Additionally, the assessment indicated that fishing mortality ( $F_{2015}$ ) was greater than  $F_{MSY}$  (1.93-4.38), with a combined 90-percent probability from all models that the population is overfished with overfishing occurring.

The 2017 assessment estimated that total North Atlantic shortfin mako catches across all ICCAT parties are currently between 3,600 and 4,750 mt per year, and that total catches would have to be at 1,000 mt or below (72-79 percent reductions) to prevent further population declines and that catches of 500 t or less currently are expected to stop overfishing and begin to rebuild the stock. The projections indicate that a total allowable catch of 0 mt would produce a greater than 50 percent probability of rebuilding the stock by the year 2040, which is approximately equal to one mean generation time. Research indicates that post-release survival rates of Atlantic shortfin mako sharks are high (70

percent); however, the assessment could not determine if requiring live releases alone would reduce landings sufficiently to end overfishing and rebuild the stock.

### **ICCAT Recommendation 17-08**

Based on the stock assessment information, ICCAT adopted new management measures for Atlantic shortfin mako (Recommendation 17-08) at its annual meeting in November 2017. The United States must implement those measures as necessary and appropriate under ATCA. These measures largely focus on maximizing live releases of Atlantic shortfin mako sharks, allowing retention only in certain limited circumstances, increasing minimum size limits, and improving data collection in ICCAT fisheries. In November 2018, ICCAT will review the catches from the first six months of 2018 and decide whether these measures should be modified. In 2019, the SCRS will evaluate the effectiveness of these measures in ending overfishing and beginning to rebuild the stock. SCRS will also provide rebuilding information that reflects rebuilding timeframes of at least two mean generation times. Also in 2019, ICCAT will establish a rebuilding program that will have a high probability of avoiding overfishing and rebuilding the stock to  $B_{MSY}$  within a timeframe that takes into account the biology of the stock.

### **2018 Shortfin Mako Shark Interim Final Rule**

Consistent with these requirements, NMFS published an interim final rule using emergency Magnuson-Stevens Act authority to temporarily and immediately implement the following measures: 1) commercial fishermen on vessels deploying pelagic longline gear must release all live shortfin mako sharks and can only retain a shortfin mako shark if it is dead at haulback, 2) commercial fishermen using gear other than pelagic longline commercial gear (*e.g.*, bottom longline, gillnet, handgear, etc.) must release all shortfin

mako sharks, whether they are dead or alive, and 3) recreational fishermen must release any shortfin mako sharks smaller than the minimum size of 83 inches fork length (FL). The interim final rule expires on August 29, 2018, and may be extended for an additional 186 days under the Magnuson-Stevens Act provisions.

### **Request for Comments**

Both commercial and recreational fishing activities interact with and as allowable have retained shortfin mako sharks. Under the interim final rule, commercial fishermen with a limited access commercial shark permit may retain shortfin mako sharks caught on pelagic longline gear provided the shark was dead at haulback. Shortfin mako sharks caught on any other commercial gear type may not be retained. Similarly, under the interim final rule, vessels with an HMS Angling or Charter/Headboat permit may retain one shortfin mako shark greater than the minimum size of 83 inches FL per vessel.

NMFS anticipates changes to shark management as a result of the 2017 shortfin mako shark stock assessment through the rulemaking process and requests comments on potential future management options for this action. NMFS prepared an Issues and Options paper detailing potential management measures to meet its ATCA and Magnuson-Stevens Act obligations and to address overfishing of and begin rebuilding shortfin mako sharks. The Issues and Options paper is available online at the HMS website: <https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species>.

Potential management measures in the Issues and Options paper include commercial and recreational fishing requirements. Four scoping meetings and a conference call will be held (see Table 2 for meeting times and locations) to provide the opportunity for public comment on potential shortfin mako shark management measures. These comments will

be used to assist in the development of the upcoming amendment to the 2006 Consolidated Atlantic HMS FMP.

**Table 1. Time and locations of the four scoping meetings and conference call.**

<b>Date</b>	<b>Time</b>	<b>Meeting Location</b>	<b>Meeting Address</b>
March 15, 2018	4 - 8 p.m.	Panama City, FL	National Marine Fisheries Service Southeast Fisheries Science Center 3500 Delwood Beach Road Panama City, FL 32408
March 21, 2018	4 - 8 p.m.	Manteo, NC	Commissioners Meeting Room Dare County Administration Building 954 Marshall C. Collins Dr. Manteo, NC 27954
April 4, 2018	2 - 4 p.m.	Conference Call	To participate in the conference call, please call: (800) 779-3136 Passcode: 9421185 To participate in the webinar, RSVP at: <a href="https://noaaevents2.webex.com/noaaevents2/onstage/g.php?MTID=e0e45a6863a2dec162452b2b6240ef3e3">https://noaaevents2.webex.com/noaaevents2/onstage/g.php?MTID=e0e45a6863a2dec162452b2b6240ef3e3</a> , A confirmation email with webinar log-in information will be sent after RSVP is registered.
April 12, 2018	4 - 8 p.m.	Manahawkin, NJ	Stafford Branch Public Library 129 North Main St Manahawkin, NJ 08050
April 19, 2018	5 - 8 p.m.	Gloucester, MA	National Marine Fisheries Service Grater Atlantic Regional Office 55 Great Republic Dr. Gloucester, MA 01930

The public is reminded that NMFS expects participants at public scoping meetings and on conference calls to conduct themselves appropriately. At the beginning of the scoping meetings and conference call, a representative of NMFS will explain the ground rules (*e.g.*, all comments are to be directed to the Agency; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees should not interrupt one another). The meeting locations will be physically accessible to people with disabilities. Requests

for sign language interpretation or other auxiliary aids should be directed to Guý DuBeck at 301-427-8503, at least 7 days prior to the meeting. A NMFS representative will attempt to structure the meeting so that all attending members of the public will be able to comment if they so choose, regardless of the controversial nature of the subject matter. If attendees do not respect the ground rules they will be asked to leave the scoping meeting or conference call.

Because the rulemakings overlap for some gear types, the public scoping meetings being held in Panama City, FL, Manteo, NC, and Manahawkin, NJ will be held in conjunction with public scoping meetings for pelagic longline bluefin tuna area-based and weak hook management. The shortfin mako shark management measure presentation will likely be given first unless polling of the audience indicates another approach is appropriate. After each presentation, public comment for that issue will be received. Meeting attendees interested in this issue are encouraged to show up at the beginning of the meeting to help determine the order of the presentations. The second presentation will not start any later than 6 pm.

In addition to the four scoping meetings and conference call, NMFS has requested to present the issues and options document to the five Atlantic Regional Fishery Management Councils (the New England, Mid-Atlantic, South Atlantic, and Gulf of Mexico Fishery Management Councils) and the Atlantic and Gulf States Marine Fisheries Commissions during the public comment period. Please see the Councils' and Commissions' spring meeting notices for times and locations.

Based on the 2017 shortfin mako shark stock assessment, implementation of new management measures via an amendment to the 2006 Consolidated HMS FMP is



necessary to address overfishing and rebuild the stock. NMFS anticipates completing this amendment and any related documents in early 2019.

Dated: February 28, 2018.

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Jennifer M. Wallace,  
Acting Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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